

Amendment No. 3 to HB2865

Weaver
Signature of Sponsor

AMEND Senate Bill No. 3513

House Bill No. 2865*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 7-82-307(b)(1)(A), is amended by deleting the language, “and may conduct a contested case hearing in accordance with subdivision (b)(1)(B), within the service area of the utility district” in the first sentence in its entirety and by substituting instead the following language:

and, for any utility district operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census, may conduct a contested case hearing in accordance with subdivision (b)(2)(A), within the service area of the utility district.

SECTION 2. Tennessee Code Annotated, Section 7-82-307, is amended by redesignating existing subdivision (b)(1)(A) as new subdivision (b)(1).

SECTION 3. Tennessee Code Annotated, Section 7-82-307, is amended by redesignating existing subdivision (b)(1)(B) as new subdivision (b)(2)(A) and redesignating existing subdivision (b)(2) as new subdivision (b)(2)(B).

SECTION 4. Tennessee Code Annotated, Section 7-82-307(b)(3)(A)(ii), is amended by deleting the following language in its entirety:

If the utility management review board of a utility district elects to hold a contested case hearing on this issue, then the hearing shall be conducted within the service area of the utility district.

And by substituting instead the following language:

If the utility management review board of a utility district operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census elects to hold a contested case

hearing on this issue, then the hearing shall be conducted within the service area of the utility district.

SECTION 5. Tennessee Code Annotated, Section 7-82-307(b), is amended by adding the following language as new subdivision (b)(4):

(4) Except when a utility district is operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census, when the member of a utility district board of commissioners is absent from four (4) consecutive regular board meetings or from one-half (1/2) or more of the regular board meetings in a calendar year, the utility district shall report such absenteeism in writing to the county mayor of the county in which the utility district commissioner resides or is a customer and to the county mayor of the county in which the utility district's principal office is located, if different. The utility district's written report of absenteeism shall be sent to the county mayor or mayors within thirty (30) days after:

(A) The fourth consecutive unattended board meeting; or

(B) The end of the calendar year in which one-half (1/2) or more of the regular board meetings were not attended, with a copy of such written report sent to the utility district commissioner, all such reports to be sent by certified mail.

SECTION 6. Tennessee Code Annotated, Section 7-82-307(b), is further amended by adding the following language as new subdivision (b)(5):

(5) Except when a utility district is operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census, a utility district commissioner who fails to meet the training and continuing education requirements set forth in § 7-82-308(h) or (i) before the end of the commissioner's term of office shall not be eligible for reappointment or reelection to another term of office. For the purposes of this subdivision, the continuing education period used to determine whether a utility district commissioner has met the training and continuing education requirements set forth in §

7-82-308(h) shall be the last full continuing education period before the utility district commissioner's term of office ends.

SECTION 7. Tennessee Code Annotated, Section 7-82-307(c), is amended by deleting the language "within the service area of the utility district" in the second sentence in its entirety and by substituting instead the following language "within the service area of the utility district if such utility district is operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census".

SECTION 8. Tennessee Code Annotated, Section 7-82-307, is amended by adding the following language as new subsection (f) and by redesignating the present language accordingly:

(f)

(1) Immediately upon indictment for misconduct in office, the indicted utility district commissioner shall be suspended from office pending the final disposition of the criminal proceeding or until the expiration of the commissioner's term of office, whichever occurs first. While suspended, an indicted commissioner shall be ineligible to receive any payments or benefits as provided in § 7-82-308(a). In a single county utility district, the county mayor of that county shall have the power and responsibility to make an interim appointment to fill the vacancy created by the suspension from office. In a multi-county utility district, the county mayor of the county in which the indicted utility district commissioner resides or is a customer shall have the power and responsibility to make an interim appointment to fill the vacancy created by the suspension from office. If the criminal proceeding against the suspended utility district commissioner has not terminated by the expiration of the term, the office will be considered vacant and be filled as provided by law. If the criminal proceeding is terminated with a finding or verdict of guilty on any of the charges on which the commissioner was indicted, then the suspension shall be made permanent, the office will be considered vacant, and the interim appointee shall serve until the office is filled

as provided by law. If the criminal proceeding against the suspended utility district commissioner related to the indictment for misconduct in office is terminated by any finding, adjudication or deferral of the proceedings, including a not guilty verdict or a dismissal on the merit, the suspension of the utility district commissioner shall be removed, and the commissioner shall become eligible to serve his or her office; simultaneously the county mayor's interim appointee shall cease to hold office.

(2) The provisions of this subsection (f) shall not apply to any utility district operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census.

SECTION 9. Tennessee Code Annotated, Section 7-82-308, is amended by adding the following language as new subsections (h) and (i):

(h)

(1) Within one (1) year of initial appointment or election to the board of commissioners of a utility district or prior to or within one (1) year of the reappointment or reelection to the board of commissioners of an incumbent utility district commissioner holding office on the effective date of this subsection, a utility district commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (h)(5). An incumbent utility district commissioner holding office on the effective date of this subsection (h) who has received a minimum of twelve (12) hours of training or more in one (1) or more courses addressing subjects identified in subdivision (h)(5) within the past three (3) years may submit a request to the comptroller to be exempt from the training and continuing education requirements set forth in this subdivision (h)(1).

(2) In each continuing education period after the initial training and continuing education required by subdivision (h)(1), a utility district commissioner

shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (h)(5). For the purposes of this subdivision (h)(2), a “continuing education period” is a period of three (3) years beginning January 1 after the calendar year in which a utility district commissioner completes the training and continuing education requirements set forth in subdivision (h)(1) and each succeeding three-year period thereafter.

(3) Each utility district commissioner shall certify by January 31 of each year the training and continuing education courses attended during the prior calendar year by filing an annual written statement with the utility district on a form developed by the comptroller. Each annual statement shall identify the date of each course attended, its subject matter, location, sponsor, and the hours attended for each course and shall include a certificate of attendance for each course listed on the annual statement. Each utility district commissioner shall be responsible for obtaining a certificate of attendance certifying that the utility district commissioner attended the course, on a form acceptable to the comptroller. The failure to file the annual statement shall cause a commissioner to be ineligible to receive any further payment or benefit as provided in § 7-82-308(a) until the annual written statement is filed. Each utility district shall keep for six (6) years after the calendar year in which each annual statement is filed a copy of the annual statements of attendance filed by members of the board of commissioners of the utility district.

(4) The utility district shall be responsible for paying the training and continuing education course registration and travel expenses for the training and continuing education required by this subsection (h) for the members of the utility district’s board of commissioners.

(5) The subjects for the training and continuing education required by subdivisions (h)(1) and (2) shall include, but not be limited to, board governance; financial oversight; policy-making responsibilities; and other topics reasonably

related to the duties of the members of the board of commissioners of a utility district.

(6) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for utility district commissioners covering the subjects set forth in subdivision (h)(5) to be submitted to the comptroller for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the utility management review board. Changes and updates to the curriculum shall be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller shall be updated every three (3) years and resubmitted to the comptroller for review and approval.

(7) Nothing in this subsection shall prohibit the utility management review board from requiring training and continuing education in addition to that required under this subsection (h) for utility district commissioners of a utility district which is financially distressed under § 7-82-703.

(8) As used in this subsection (h), "utility district commissioners" include the members of the governing board of any utility district created pursuant to this chapter or any public or private act and the members of the governing board of any water or sewer authority created by any public or private act.

(9) The provisions of this subsection (h) shall not apply to any utility district operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census.

(i) The provisions of subsection (h) shall not apply to any member of the governing board of a gas utility district who receives extensive annual training substantially equal to the training required pursuant to subsection (h) offered by an association of gas utility districts or directly through the gas utility district, provided that

the gas utility district submits the training curriculum to the comptroller for review and approval prior to use.

SECTION 10. Tennessee Code Annotated, Section 7-82-308(d), is amended by deleting the present language in its entirety and by substituting instead the following:

(d)

(1) Only persons who reside within the districts boundaries or who are customers of the district shall be eligible for appointment or election to the board.

As used in this subsection, "customer" means a person who is regularly billed and pays for a utility service rendered by the district.

(2) The provisions of this subsection (d) shall not apply to any utility district operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census.

SECTION 11. Tennessee Code Annotated, Section 7-82-607(a)(1), is amended by deleting the language "own property" and by substituting instead the language "be a district customer".

SECTION 12. Tennessee Code Annotated, Section 7-82-607(b), is amended by deleting the language "or owner of real property" and substituting instead the language "or a district customer".

SECTION 13.

(a) Notwithstanding Tennessee Code Annotated, Section 8-48-101, the office of a district commissioner will not be vacated upon the effective date of this act solely because the district commissioner is not a district resident or customer and the district commissioner may continue in office until the expiration of such commissioner's term of office in effect on the effective date of this act.

(b) The provisions of this SECTION 13 shall not apply to any utility district operating solely in any county having a population of not less than 17,700 nor more than 17,775 according to the 2000 federal census or any subsequent federal census.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.